

REMARKS

Claims 1, 3-11, 27, 29-38 and 56 are pending. Claims 1, 7, 8, 27, 33, 34 and 56 have been amended. Claims 1, 27 and 56 are the only independent claims. Claims 2, 12-26, 28, 39-55 and 57 have been cancelled without prejudice.

Claims 1-13 and 14-26 were rejected under 35 U.S.C. § 101 as allegedly being directed to non-statutory subject matter. Applicants traverse.

Claim 1 is a method adapted to decide a channel to be employed for radio communication. The method recites, among other things, “notifying information relating to this decided channel to said other radio station.” That is, in addition to making a decision as to which a channel is to be employed between radio stations, which is clearly a practical application, the other radio station is notified of the channel decided in the first step.

This notification, together with the decision in the first step, combines to provide a useful, tangible and concrete result that “the other radio station” will change its channel during radio communication, when the decision is made for the channel to be changed. Moreover, the decision leads to a physical transformation in that (a) a notification will be sent to the other radio station; and (b) the radio station receiving the notification will change its channel, when a channel change is decided, which is clearly a practical application.

It is clear from the foregoing that the method of claim 1 is not simply an Abstract Idea and in no way pre-empt a Law of Nature or Natural Phenomenon. Withdrawal of the rejection under Section 101 is respectfully requested.

Claims 7, 8, 12, 13, 20, 21, 25, 26, 33, 34, 39, 40, 47, 48, 53 and 54 were rejected under 35 U.S.C. § 112, second paragraph, as indefinite. The cancellation of claims 12,

13, 20, 21, 25, 26, 39, 40, 47, 48, 53 and 54 renders their rejection moot. Claims 7, 8, 33 and 34 have been amended and clearly meet the requirements of Section 112, second paragraph. Withdrawal of the rejection is respectfully requested.

Claims 1-11, 14-24, 27-38, 41-52 and 55-57 were rejected under 35 U.S.C. § 102(e) over Cervello et al. (WO 02/23819).

Amended claim 1 recites, *inter alia*, “a first step of making decision of said channel at a certain timing in said one radio station, said timing being based on a predetermined constant period or a variable period, and said timing being independent of a detection of interference; . . . .”

As amended, claim 1 relates to making a decision of the channel at a periodic timing. Moreover, the periodic timing is independent of a timing based on detection of interference.

On the other hand, Cervello makes a decision of the channel based on detection of interference (or deterioration in communication quality) as a trigger for making the decision. While Cervello mentions carrying out a measurement (e.g., of channel conditions) periodically, there is no mention of making a decision of the channel independent of a detection of interference. For at least the foregoing reasons, amended claim 1 is believed clearly patentable over Cervello. Amended independent claims 27 and 56 recite substantially the same feature and are believed patentable for at least the same reasons.

The other claims are dependent upon the independent claims discussed above and are believed patentable for at least the same reasons as their respective base claims.

In view of the foregoing amendments and remarks, Applicants respectfully request favorable reconsideration and early passage to issue of the present application.

Dated: August 1, 2007

Respectfully submitted,

By Joseph W. Ragusa  
Joseph W. Ragusa

Registration No.: 38,586  
DICKSTEIN SHAPIRO LLP  
1177 Avenue of the Americas  
41st Floor  
New York, New York 10036-2714  
(212) 277-6500  
Attorney for Applicant